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that the bailee should be liable for such use as he has received, with a counterclaim for any damages he might have suffered from the wrongful taking. However, it is held that such a contract is entire; and upon breach by the bailor, he forfeits his rights to the whole rent. *Harris v. Maury*, 30 Ala. 679.

**CARRIERS—SHIPPING CONTRACT—WAIVER.**—The provisions of a shipping contract provided for the filing of a certain form of notice, within a definite time, in case the consignment was damaged. On the damage of the shipment the consignor filed a defective notice, to which the carrier did not object. *Held*, the carrier waived notice by the contract form. *St. Louis I. M. & S. R. Co. v. Laser Grain Co.* (Ark.), 179 S. W. 189. See 2 VA. L. REV. 68.

**CONSTITUTIONAL LAW—PARDONS—SUSPENSION OF SENTENCE.**—A statute authorized a court, at its discretion, to suspend any sentence imposed upon persons convicted of felony, on such conditions as it may deem proper. *Held*, such a statute is not an encroachment upon the constitutional power of the executive to grant pardons and reprieves. *Ex parte Bates* (N. M.), 151 Pac. 698.

The power of a court to suspend the imposition of a sentence temporarily to afford time for motions for new trials, appeals, or for any good cause has never been doubted; and it is generally recognized that the power of the court also extends to the temporary suspension of the execution of the sentence. See *United States v. Wilson*, 46 Fed. 748; *People v. Brown*, 54 Mich. 15, 19 N. W. 571; 4 BL. COMM. 394.

The power of a court to suspend sentence indefinitely has been considered by some state authorities as inherent in the courts at common law. See *People v. Court of Sessions*, 141 N. Y. 288, 36 N. E. 386, 23 L. R. A. 856; *Com. v. Dowdican's Bail*, 115 Mass. 133; *State v. Addy*, 43 N. J. L. 113, 39 Am. Rep. 547. Either guided by the conclusion that the power to suspend sentence indefinitely never existed in the courts and is therefore an unwarranted exercise of executive authority, or that if this power did exist at common law, it is taken away by the exclusive constitutional grant to the executive of the power of pardon and reprieve, a number of courts have adopted the contrary view, holding that the exercise of such authority by the judiciary is unconstitutional and all acts performed under it are void. *United States v. Wilson*, *supra*; *People v. Barrett*, 202 Ill. 287, 67 N. E. 23, 95 Am. St. Rep. 230, 63 L. R. A. 82; *Neal v. State*, 104 Ga. 509, 30 S. E. 858, 42 L. R. A. 190; *State v. Abbott*, 87 S. C. 466, 70 S. E. 6, 33 L. R. A. (N. S.) 112, 23 Ann. Cas. 1189. It is explained by some authorities that such a power did exist under the old common law, when there was no right of appeal and which was necessary to the preservation of justice, but since the reason for the rule never existed in this country no such power could be claimed by the courts. See *Spencer v. State*, 125 Tenn. 64, 140 S. W. 597; *Snodgrass v. State* (Tex. Crim. App.), 150 S. W. 162, 41 L. R. A. (N. S.) 1144. Arbitrary reprieves, granted by the judges in cases of necessity, seem to have been recognized under the old common law by usage rather than by strict right. See 4 BL. COMM. 394.

But however that may be, it seems it is well established that a criminal court cannot after judgment is rendered and sentence pronounced indefinitely postpone the execution of the sentence. *Tanner v. Wiggins*, 54 Fla. 203, 45 South. 459, 14 Ann. Cas. 718; *Neal v. State*, *supra*; *Fuller v. State*, 100 Miss. 811, 57 South. 806. Though overlooked by a number of courts, a clear distinction should be made between the suspension of the imposition of a sentence and the execution of a sentence. See *Re Webb*, 89 Wis. 354, 62 N. W. 177, 46 Am. St. Rep. 846, 27 L. R. A. 356; *Neal v. State*, *supra*.

Statutes have been passed in many states giving the court the power to indefinitely suspend sentence, unfortunately adding to the conflict rather than diminishing it. A number of courts take the view that such a statute is merely declarative of an already existing power inherent in the courts at common law. *People ex rel. Forsyth v. Court of Sessions*, *supra*; *Com. v. Dowdican's Bail*, *supra*. Another line of cases holds that such a statute encroaches upon the constitutional power of the executive to grant pardons and reprieves; and is therefore unconstitutional. *Snodgrass v. State*, *supra*. But see *Ex parte Hart* (N. D.), 149 N. W. 568.

CORPORATIONS—RECEIVERS—CLAIMS PROVABLE.—The buyer, a corporation, entered a contract to buy certain goods for a term of five years. By the terms of the contract, should the buyer fail to pay for any delivery of the goods and demand of payment be made by the seller, then, after two weeks, the goods being still not paid for, the contract should be deemed broken and the buyer should be assessed specified damages. After the buyer had failed to make prompt payment and the seller had made demand on him, but before the expiration of the two weeks, a receiver was appointed for the corporation because of insolvency. A claim for damages for the breach of the contract was filed against the assets of the insolvent corporation in the hands of the receiver. *Held*, the claim is provable. *In re Ross & Son* (Del.), 95 Atl. 31.

The cases involving the question of whether or not the appointment of a receiver for an insolvent corporation prevents the enforcement of a right to damages for the breach of an executory contract are by no means harmonious in their decisions. By the general rule, known as the New York rule, damages for the breach of an executory contract for personal services, are not provable. *Lenoir v. Linville Improvement Co.*, 126 N. C. 922, 36 S. E. 185, 51 L. R. A. 146; *People v. Mutual Life Insurance Co.*, 91 N. Y. 174; *Miller v. Cosmic Cement, Tile & Stone Co.*, 109 Md. 11, 71 Atl. 91. The minority, or New Jersey rule allows such claims to share *pro rata* in the funds distributed by the receiver. *Spades v. Mural Decoration Mfg. Co.*, 47 N. J. Eq. 18, 20 Atl. 378; *Rosenbaum v. United States Credit-System Co.*, 61 N. J. L. 543, 40 Atl. 591. Because of the possibility that the funds in the hands of the receiver might be greater than the otherwise provable outstanding claims, in which case the difference would be returned to the stockholders, thus giving an unfair protection against just liabilities. See *Rosenbaum v. United States Credit-System Co.*, *supra*. In the case of the breach of an executory contract of lease, by the decided weight of authority, it is